

AMENDED IN ASSEMBLY MAY 1, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

**No. 691**

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**Introduced by Assembly Member Silva**

February 21, 2007

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An act to amend Sections 11500, 11501, 11502, 11502.5, 11504, and 11505, *and 11506* of, ~~and to repeal Chapter 5 (commencing with Section 11506) of Part 4 of Division 4 of,~~ the Business and Professions Code, relating to common interest developments.

### LEGISLATIVE COUNSEL'S DIGEST

AB 691, as amended, Silva. Certified common interest development managers.

Existing law, the Davis-Stirling Common Interest Development Act, establishes a scheme for the regulation of common interest developments. Existing law requires a person to meet certain requirements in order to be called a “certified common interest development manager” and imposes other requirements with regard to common interest development managers. Existing law; makes professional associations, as defined, responsible for the certification of common interest development managers, as specified. Existing law defines various terms for carrying out these provisions. Under existing law, the provisions regulating certified common interest development managers *are subject to review by the Joint Committee on Boards, Commissions, and Consumer Protection, as specified, and will become inoperative and are* ~~be~~ repealed on January 1, 2008.

This bill would *delete the review requirement and* extend the operation of these provisions ~~indefinitely until January 1, 2012~~. The bill would modify the requirements in order to be called a “certified common interest development manager” and would ~~require professional associations to offer continuing education courses to common interest development managers~~. The bill would also revise various definitions. The bill would make numerous, nonsubstantive and technical changes.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the  
2 following:
- 3 (a) There are approximately 41,000 common interest  
4 developments in this state. California common interest  
5 developments contain over 10 million homes that house more than  
6 10 million people.
- 7 (b) Homes in common interest developments, like homes that  
8 are not in common interest developments, most often represent  
9 the owner’s single largest lifetime investment.
- 10 (c) The management and operation of common interest  
11 developments is governed by a complex set of statutes and  
12 decisional law. In addition to possessing an understanding of the  
13 law, the successful professional common interest development  
14 management and operation of common interest developments  
15 require fundamental skills in subjects including, but not limited  
16 to, finance, accounting, bookkeeping, contract administration,  
17 human resources, and parliamentary procedure.
- 18 (d) Common interest development managers are often delegated  
19 the authority, by the governing body of a common interest  
20 development, to collect and disburse substantial sums of money  
21 annually in homeowner assessments, which are used for the  
22 purpose of operating the community.
- 23 (e) The growth in common interest developments, coupled with  
24 the addition of governing statutes and decisional law, has  
25 emphasized the importance for common interest development  
26 managers to have the necessary skills and technical expertise to  
27 manage these associations.

1 (f) Individuals managing common interest developments who  
2 have these skills and expertise may identify themselves as  
3 “certified,” if they have met the requirements of Section 11502 of  
4 the Business and Professions Code.

5 (g) Since the enactment of the certification law in 2003,  
6 voluntary certification has tripled, resulting in a significant increase  
7 in the number of educated professional community managers.

8 (h) Residents of common interest developments in this state;  
9 who serve as board members of those developments; should be  
10 made aware that those managers who refer to themselves as  
11 “certified community managers” have met specific educational  
12 requirements and standards.

13 SEC. 2. Section 11500 of the Business and Professions Code  
14 is amended to read:

15 11500. For purposes of this chapter, the following definitions  
16 apply:

17 (a) “Common interest development” means a residential  
18 development identified in subdivision (c) of Section 1351 of the  
19 Civil Code.

20 (b) “Association” has the same meaning as defined in  
21 subdivision (a) of Section 1351 of the Civil Code.

22 (c) “Financial services” means ~~an act~~ *acts* performed or offered  
23 to be performed, for compensation, for an association, including,  
24 but not limited to, the preparation of internal unaudited financial  
25 statements, internal accounting and bookkeeping functions, billing  
26 of assessments, and related services.

27 (d) “Management services” means ~~an act~~ *acts* performed or  
28 offered to be performed in an advisory capacity for an association  
29 including, but not limited to, the following:

30 (1) Administering or supervising the collection, reporting, and  
31 archiving of the financial or common area assets of an association  
32 or common interest development, at the direction of the  
33 association’s board of directors.

34 (2) Implementing resolutions and directives of the board of  
35 directors of the association elected to oversee the operation of a  
36 common interest development.

37 (3) Implementing provisions of governing documents, as defined  
38 in Section 1351 of the Civil Code, ~~which~~ *that* govern the operation  
39 of the common interest development.

(4) Administering association contracts, including insurance contracts, within the scope of the association's duties or with other common interest development managers, vendors, contractors, and other third-party providers of goods and services to an association or common interest development.

(e) "Professional association for common interest development managers" means an organization that meets all of the following:

(1) Has at least 200 members or certificants who are common interest development managers in California.

(2) Has been in existence for at least five years.

(3) Operates pursuant to Section 501(c) of the Internal Revenue Code.

(4) Certifies that a common interest development manager has met the criteria set forth in Section 11502 without requiring membership in the association.

(5) Requires adherence to a code of professional ethics and standards of practice for certified common interest development managers.

SEC. 3. Section 11501 of the Business and Professions Code is amended to read:

11501. (a) "Common interest development manager" means an individual who for compensation, or in expectation of compensation, provides or contracts to provide management or financial services, or represents himself or herself to act in the capacity of providing management or financial services to an association. Notwithstanding any other provision of law, an individual may not be required to obtain a real estate or broker's license in order to perform the services of a common interest development manager to an association.

(b) "Common interest development manager" also means any of the following:

(1) An individual who is a partner in a partnership, a shareholder or officer in a corporation, or who, in any other business entity acts in a capacity to advise, supervise, and direct the activity of a registrant or provisional registrant, or who acts as a principal on behalf of a company that provides the services of a common interest development manager.

(2) An individual operating under a fictitious business name who provides the services of a common interest development manager.

This section may not be construed to require an association to hire for compensation a common interest development manager, unless required to do so by its governing documents. Nothing in this part shall be construed to supersede any law that requires a license, permit, or any other form of registration, to provide management or financial services. Nothing in this section shall preclude a licensee of the California Board of Accountancy from providing financial services to an association within the scope of his or her license in addition to the preparation of reviewed and audited financial statements and the preparation of the association's tax returns.

SEC. 4. Section 11502 of the Business and Professions Code is amended to read:

11502. In order to be called a "certified common interest development manager," ~~the~~ a person shall meet one of the following requirements:

(a) Prior to July 1, 2003, has passed a knowledge, skills, and aptitude examination as specified in Section 11502.5 or has been granted a certification or a designation by a professional association for common interest development managers, and who has, within five years prior to July 1, 2004, received instruction in California law pursuant to paragraph (1) of subdivision (b).

(b) On or after July 1, 2003, has successfully completed an educational curriculum that shall be no less than a combined 30 hours in coursework described in this subdivision and passed an examination or examinations that test competence in common interest development management in the following areas:

(1) The law that relates to the management of common interest developments, including, but not limited to, the following courses of study:

(A) Topics covered by the Davis-Stirling Common Interest Development Act, contained in Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, including, but not limited to, the types of California common interest developments, disclosure requirements pertaining to common interest developments, meeting requirements, financial reporting requirements, and member access to association records.

(B) Personnel issues, including, but not limited to, general matters related to independent contractor or employee status, the laws on harassment, the Unruh Civil Rights Act, the California

1 Fair Employment and Housing Act, and the Americans with  
2 Disabilities Act.

3 (C) Risk management, including, but not limited to, insurance  
4 coverage, maintenance, operations, and emergency preparedness.

5 (D) Property protection for associations, including, but not  
6 limited to, pertinent matters relating to environmental hazards such  
7 as asbestos, radon gas, and lead-based paint, the Vehicle Code,  
8 local and municipal regulations, family day care facilities, energy  
9 conservation, Federal Communications Commission rules and  
10 regulations, and solar energy systems.

11 (E) Business affairs of associations, including, but not limited  
12 to, necessary compliance with federal, state, and local law.

13 (F) Basic understanding of governing documents, codes, and  
14 regulations relating to the activities and affairs of associations and  
15 common interest developments.

16 (2) Instruction in general management that is related to the  
17 managerial and business skills needed for management of a  
18 common interest development, including, but not limited to, the  
19 following:

20 (A) Finance issues, including, but not limited to, budget  
21 preparation; management; administration or supervision of the  
22 collection, reporting, and archiving of the financial or common  
23 area assets of an association or common interest development;  
24 bankruptcy laws; and assessment collection.

25 (B) Contract negotiation and administration.

26 (C) Supervision of employees and staff.

27 (D) Management of maintenance programs.

28 (E) Management and administration of rules, regulations, and  
29 parliamentary procedures.

30 (F) Management and administration of architectural standards.

31 (G) Management and administration of the association's  
32 recreational programs and facilities.

33 (H) Management and administration of owner and resident  
34 communications.

35 (I) Training and strategic planning for the association's board  
36 of directors and its committees.

37 (J) Implementation of association policies and procedures.

38 (K) Ethics, professional conduct, and standards of practice for  
39 common interest development managers.

40 (L) Current issues relating to common interest developments.

1 (M) Conflict avoidance and resolution mechanisms.

2 ~~(e) A professional association for common interest development~~  
3 ~~managers administering the coursework and examination or~~  
4 ~~examinations set forth in this section shall offer continuing~~  
5 ~~education courses to common interest development managers who~~  
6 ~~have previously met the requirements of this section. The~~  
7 ~~professional association shall determine the coursework on~~  
8 ~~pertinent issues related to common interest developments, which~~  
9 ~~shall include changes related to federal, state, and local law.~~

10 *(c) Nothing in this section shall be construed to prohibit a*  
11 *professional association for common interest development*  
12 *managers from offering continuing education coursework as part*  
13 *of its certification program.*

14 SEC. 5. Section 11502.5 of the Business and Professions Code  
15 is amended to read:

16 11502.5. The course related competency examination or  
17 examinations and education provided to a certified common interest  
18 development manager pursuant to Section 11502 by any  
19 professional association for common interest development  
20 managers, or any postsecondary educational institution, shall be  
21 developed and administered in a manner consistent with standards  
22 and requirements set forth by the American Educational Research  
23 Association's "Standards for Educational and Psychological  
24 Testing," and the Equal Employment Opportunity Commission's  
25 "Uniform Guidelines for Employee Selection Procedures," the  
26 Unruh Civil Rights Act, the California Fair Employment and  
27 Housing Act, and the Americans with Disabilities Act of 1990, or  
28 the course or courses that have been approved as a continuing  
29 education course or an equivalent course of study pursuant to the  
30 regulations of the Real Estate Commissioner.

31 SEC. 6. Section 11504 of the Business and Professions Code  
32 is amended to read:

33 11504. On or before September 1, 2003, and annually  
34 thereafter, a person who either provides or contemplates providing  
35 the services of a common interest development manager to an  
36 association shall disclose to the board of directors of the association  
37 the following information:

38 (a) Whether or not the common interest development manager  
39 has met the requirements of Section 11502 so he or she may be  
40 called a certified common interest development manager.

1 (b) The name, address, and telephone number of the professional  
2 association that certified the common interest development  
3 manager, the date the manager was certified, and the status of the  
4 certification.

5 (c) The location of his or her primary office.

6 (d) Prior to entering into or renewing a contract with an  
7 association, the common interest development manager shall  
8 disclose to the board of directors of the association or common  
9 interest development whether the fidelity insurance of the common  
10 interest development manager or his or her employer covers the  
11 current year's operating and reserve funds of the association. This  
12 requirement shall not be construed to compel an association to  
13 require a common interest development manager to obtain or  
14 maintain fidelity insurance.

15 (e) Whether the common interest development manager  
16 possesses an active real estate license.

17 This section may not preclude a common interest development  
18 manager from disclosing information as required in Section 1363.1  
19 of the Civil Code.

20 SEC. 7. Section 11505 of the Business and Professions Code  
21 is amended to read:

22 11505. It is an unfair business practice for a common interest  
23 development manager, a company that employs the common  
24 interest development manager, or a company that is controlled by  
25 a company that also has a financial interest in a company  
26 employing that manager, to do any of the following:

27 (a) On or after July 1, 2003, to hold oneself out or use the title  
28 of "certified common interest development manager" or any other  
29 term that implies or suggests that the person is certified as a  
30 common interest development manager without meeting the  
31 requirements of Section 11502.

32 (b) To state or advertise that he or she is certified, registered,  
33 or licensed by a governmental agency to perform the functions of  
34 a certified common interest development manager.

35 (c) To state or advertise a registration or license number, unless  
36 the license or registration is specified by a statute, regulation, or  
37 ordinance.

38 (d) To fail to comply with any item to be disclosed in Section  
39 11504 of this code, or Section 1363.1 of the Civil Code.



1     ~~SEC. 8. Chapter 5 (commencing with Section 11506) of Part~~  
2     ~~4 of Division 4 of the Business and Professions Code is repealed.~~

3     ~~SEC. 8. Section 11506 of the Business and Professions Code~~  
4     ~~is amended to read:~~

5     ~~11506. This part shall be subject to the review required by~~  
6     ~~Division 1.2 (commencing with Section 473). This part shall~~  
7     ~~remain in effect only until January 1, 2008 2012, and as of that~~  
8     ~~date is repealed, unless a later enacted statute, that is enacted before~~  
9     ~~January 1, 2008 2012, deletes or extends that date.~~